

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LYNADA LATICIA MAHONE,

Defendant.

No. CR-18-18-H-SEH

ORDER

On September 1, 2020, this Court, in compliance with the Ninth Circuit Appellate Commissioner's Order of July 16, 2020, entered an order in this case, the complete text of which is attached and incorporated by reference as Exhibit "A."

On September 22, 2020, the office of the Clerk of the Ninth Circuit Court of Appeals received an additional document submitted by Lynada Laticia Mahone ("Mahone") denominated "Motion Requesting Extension of Appeal." The Ninth Circuit's Clerk's Office forwarded Mahone's motion to the Clerk of the United States District Court for the District of Montana for filing. Filing in the District Court was accomplished on September 23, 2020.¹

¹ Doc. 32.

As this Court's Order of September 1, 2020,² reflects, Mahone failed to respond to either the Circuit Order of July 16, 2020,³ or this Court's Order of July 17, 2020, presenting her with the opportunity to "file a request supported by reliable evidence of good cause or excusable neglect justifying a conclusion by this Court that the time for Mahone to file an appeal in this case be extended."⁴ This Court's September 1, 2020,⁵ Order stated and found, in response to the Courts' instructions, "[no] evidence of excusable neglect or good cause to support an extension of time for filing a notice of appeal has been shown."⁶

If Mahone's September 22, 2020, submission to the Clerk of the Ninth Circuit Court of Appeals was intended as a notice of appeal, it was untimely.⁷ If it was intended as a second "Motion Requesting Extension of Appeal," it was not submitted until September 23, 2020, well beyond the expiration of the time

² Doc. 31.

³ Doc. 29.

⁴ Doc. 30 at 2.

⁵ Doc. 31.

⁶ Doc. 31 at 3.


⁷ See Fed. R. App. P. 4(b)(1)(A).

permitted by appellate rule to grant such an extension.⁸

ORDERED:

All requests for action or relief sought by Mahone in the September 22, 2020, submission⁹ are DENIED.

DATED this 2nd day of October, 2020.



SAM E. HADDON
United States District Judge

⁸ Fed. R. App. P. 4(b)(4).

⁹ Doc. 32.

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
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Defendant.

No. CR-18-18-H-SEH

ORDER

On June 2, 2020, Defendant Lynada Laticia Mahone (“Mahone”) moved the Court to modify her imprisonment, citing the First Step Act and 18 U.S.C. § 3582(c)(1)(A).¹ The request was denied on June 19, 2020.² Any notice of appeal from the denial was due on or before July 6, 2020.³ Mahone filed her Notice of Appeal on July 7, 2020.⁴

The Ninth Circuit remanded the matter to this Court “for the limited purpose of permitting the district court to provide appellant [Mahone] notice and an

¹ See Doc. 25 at 2–3.

² See Doc. 26 at 3.

³ See Fed. R. App. P. 4(b)(1)(A), 26(a)(1)(C).

⁴ See Doc. 27 at 3; *Houston v. Lack*, 487 U.S. 266, 270–71 (1988).

opportunity to request that the time for filing the notice of appeal be extended.”⁵

Fed. R. App. P. 4(b)(4) recites:

Motion for Extension of Time. Upon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

The Court ordered Mahone to have to and including August 7, 2020, to file evidence of good cause or excusable neglect supporting an extension of time. The notice was served as directed.

The record discloses: (1) notice of the Court’s Order was mailed by the Clerk on July 17, 2020,⁶ to Mahone; (2) more than thirty days have passed since the notice of July 17, 2020,⁷ was mailed to Mahone; and (3) no request for extension of the time for filing notice of appeal has been filed by Mahone.

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⁵ Doc. 29 at 2 (citing Fed. R. App. P. 4(b)(4); *United States v. Ono*, 72 F.3d 101, 103 (9th Cir. 1995) (order); *United States v. Stolarz*, 547 F.2d 108 (9th Cir. 1976)).


⁶ Doc. 30.

⁷ Doc. 30.

ORDERED:

No evidence of excusable neglect or good cause to support an extension of time for filing a notice of appeal has been shown.

DATED this 1st day of September, 2020.



SAML E. HADDON
United States District Judge